

The House Committee on Juvenile Justice offers the following substitute to SB 225:

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding the Juvenile Code, so as to bring such provisions in
3 conformity with the federal Social Security Act and the Family First Prevention Services
4 Act; to amend Articles 3 and 4 of Chapter 11 of Title 15 of the Official Code of Georgia
5 Annotated, relating to dependency proceedings and termination of parental rights,
6 respectively, so as to provide for the special treatment of Native American children involved
7 in dependency or termination of parental rights proceedings as required by federal law; to
8 amend Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating
9 to general provisions regarding parent and child relationship generally, so as to bring such
10 provisions in conformity with the federal Child Abuse Prevention and Treatment Act; to
11 amend Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating
12 to children and youth services, so as to comply with the John H. Chafee Foster Care Program
13 for Successful Transition to Adulthood; to amend Article 2 of Chapter 13 of Title 50 of the
14 Official Code of Georgia Annotated, relating to the Office of State Administrative Hearings,
15 so as to provide for compliance with Titles IV-B and IV-E of the federal Social Security Act
16 regarding final decision-making authority in contested cases; to provide for related matters;
17 to provide for an effective date; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
21 general provisions regarding the Juvenile Code, is amended by adding new paragraphs to
22 Code Section 15-11-2, relating to definitions, as follows:

23 "(32.1) 'Family and permanency team' shall consist of all appropriate biological family
24 members, relatives, and fictive kin of the child, as well as, as appropriate, professionals
25 who are a resource to the family of the child, such as teachers, medical or mental health
26 providers who have treated the child, or clergy, and not more than two members of the

case planning team or permanency planning team selected by a child who is age 14 or older. The two members selected by the child shall not be a foster parent of, or caseworker for, the child. DFCS may reject an individual selected by the child if DFCS has good cause to believe that the individual would not act in the best interest of the child."

"(60.1) 'Qualified individual' means a trained professional or licensed clinician who is not an employee of the department and who is not connected to, or affiliated with, any placement setting in which children are placed by the department.

(60.2) 'Qualified residential treatment program' means a program that:

(A) Has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment to determine appropriateness of placement as provided for in Code Section 15-11-219;

(B) Has registered or licensed nursing staff and other licensed clinical staff who:

(i) Provide care within the scope of their practice; and

(ii) Are available 24 hours a day and seven days a week;

(C) To the extent appropriate, and in accordance with the child's best interests, facilitates participation of family members in the child's treatment program;

(D) Facilitates outreach to the family members of the child, including siblings;

(E) Documents how the outreach is made, including contact information, and maintains contact information for any known biological family and fictive kin of the child;

(F) Documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;

(G) Provides discharge planning and family-based aftercare support for at least six months post-discharge; and

(H) Is licensed in accordance with 42 U.S.C. Section 471(a)(10) and accredited in accordance with 42 U.S.C. Section 672(k)(4)."

SECTION 2.

Article 3 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to dependency proceedings, is amended by adding a new Code section to read as follows:

"15-11-100.1.

A proceeding under this article shall not be subject to this article to the extent that it is governed by the Indian Child Welfare Act, P.L. 95-608, as amended, Chapter 21 of Title 25 of the United States Code. In those circumstances, compliance with such federal law shall be required."

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SECTION 3.

64 Said article is further amended by revising paragraph (3) of subsection (b) of Code Section
65 15-11-201, relating to DFCS case plan and contents, as follows:

66 "(3)(A) A description of the type of home or institution in which such child is to be
67 placed, including a discussion of the safety and appropriateness of the placement;.

68 (B) If a child is placed in a qualified residential treatment program, DFCS must
69 document:

70 (i) Reasonable and good faith efforts to identify and include all the individuals of the
71 child's family and permanency team;

72 (ii) All contact information for members of the family and permanency team;

73 (iii) All contact information for other family members and fictive kin who are not
74 part of the family and permanency team;

75 (iv) Evidence that meetings of the family and permanency team, including meetings
76 relating to the assessment required by Code Section 15-11-219, are held at a time and
77 place convenient for family;

78 (v) If reunification is the goal, evidence demonstrating that the parent from whom the
79 child was removed provided input on the members of the family and permanency
80 team;

81 (vi) Evidence that the assessment required by Code Section 15-11-219 is determined
82 in conjunction with the family and permanency team;

83 (vii) The placement preferences of the family and permanency team relative to the
84 assessment that recognizes children should be placed with their siblings unless there
85 is a finding by the court that such placement is contrary to their best interest; and

86 (viii) If the placement preferences of the family and permanency team and child are
87 not the placement setting recommended by the qualified individual conducting the
88 assessment under Code Section 15-11-219, the reasons why the preferences of the
89 team and of the child were not recommended.

90 (C) If a child is placed in a qualified residential treatment program for more than six
91 consecutive or nonconsecutive months, DFCS must maintain:

92 (i) Documentation of the assessment completed by a qualified individual, including
93 written recommendations regarding the placement that will provide the child with the
94 most effective level of care in the least restrictive environment and how that
95 placement is consistent with the permanency goals established for the child; and

96 (ii) Documentation of the determination and approval or disapproval of the placement
97 in a qualified residential treatment program by the court;"

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SECTION 4.

99 Said article is further amended by adding a new subsection to Code Section 15-11-216,
100 relating to periodic review hearings, to read as follows:

101 "(d.1) At each review hearing held with respect to a child who remains placed in a
102 qualified residential treatment program, the department shall submit evidence documenting
103 that:

104 (1) Ongoing assessment of the strengths and needs of the child continues to support the
105 determination that the needs of the child cannot be met through placement in a foster
106 family home;

107 (2) Placement in a qualified residential treatment program provides the most effective
108 and appropriate level of care for the child in the least restrictive environment;

109 (3) Placement in a qualified residential treatment program is consistent with the short-
110 and long-term goals for the child, as specified in the permanency plan for the child;

111 (4) The specific treatment or service needs that will be met for the child in the placement
112 and the length of time the child is expected to need the treatment or services; and

113 (5) The efforts made by the department to prepare the child to return home or to be
114 placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster
115 family home."

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SECTION 5.

117 Said article is further amended by adding new Code sections to read as follows:

118 "15-11-219.

119 (a) Before a child's placement in a qualified residential treatment program, but no later
120 than 30 days following the start of such placement, a qualified individual shall:

121 (1) Assess the strengths and needs of the child using an age-appropriate, evidence-based,
122 validated, functional assessment tool;

123 (2) Determine whether the needs of the child can be met with family members or through
124 placement in a foster family home or, if not, which DFCS approved authorized setting
125 would provide the most effective and appropriate level of care for the child in the least
126 restrictive environment and be consistent with the short- and long-term goals for the
127 child, as specified in the permanency plan for the child; and

128 (3) Develop a list of child-specific short- and long-term mental and behavioral health
129 goals.

130 (b) The qualified individual conducting the assessment shall work in conjunction with the
131 family and permanency team for the child while conducting and making the assessment.

132 (c) If the qualified individual conducting the assessment determines the child should not
133 be placed in a foster family home, the qualified individual shall specify in writing:

134 (1) The reasons why the needs of the child cannot be met by the family of the child or
135 in a foster family home. A shortage or lack of foster family homes shall not be an
136 acceptable reason for determining that the needs of the child cannot be met in a foster
137 family home; and

138 (2) Why the recommended placement in a qualified residential treatment program is the
139 setting that will provide the child with the most effective and appropriate level of care in
140 the least restrictive environment and how that placement is consistent with the short- and
141 long-term goals for the child, as specified in the permanency plan for the child.

142 15-11-220.

143 (a) Within 60 days of the start of a child's placement in a qualified residential treatment
144 program, the court must:

145 (1) Consider the assessment required by Code Section 15-11-219 determination, and
146 documentation made by the qualified individual in approving the placement;

147 (2) Determine whether the needs of the child can be met through placement in a foster
148 family home or, if not, whether placement of the child in a qualified residential treatment
149 program provides the most effective and appropriate level of care for the child in the least
150 restrictive environment;

151 (3) Determine whether placement in a qualified residential treatment program is
152 consistent with the short- and long-term goals for the child, as specified in the
153 permanency plan for the child;

154 (4) Determine whether it is in the best interest of the child to be placed in a qualified
155 residential treatment program and whether, for that reason, it is not in the best interest of
156 the child or the child's siblings to be placed together; and

157 (5) Approve or disapprove the qualified residential treatment program placement by
158 entering written findings of fact on the record. Placement or a change of legal custody
159 by the court outside DFCS shall relieve DFCS of further responsibility for a child
160 adjudicated as a dependent child except for any provision of services ordered by the court
161 to ensure the continuation of reunification services to such child's family when
162 appropriate.

163 (b) Documentation of the determination and approval or disapproval of the placement in
164 a qualified residential treatment program by the court shall be included in and made part
165 of the case plan for the child."

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SECTION 6.

167 Said article is further amended in Code Section 15-11-231, relating to permanency planning
168 report, by deleting "and" at the end of subparagraph (9)(E), by replacing the period with ";"
169 and" at the end of paragraph (10), and by adding a new paragraph to read as follows:

170 "(11) For a child who remains placed in a qualified residential treatment program,
171 documentation that:

172 (A) Ongoing assessment of the strengths and needs of the child continues to support
173 the determination that the needs of the child cannot be met through placement in a
174 foster family home;

175 (B) Placement in a qualified residential treatment program provides the most effective
176 and appropriate level of care for the child in the least restrictive environment;

177 (C) Placement in a qualified residential treatment program is consistent with the short-
178 and long-term goals for the child, as specified in the permanency plan for the child;

179 (D) The specific treatment or service needs that will be met for the child in the
180 placement and the length of time the child is expected to need the treatment or services;
181 and

182 (E) The efforts made by the department to prepare the child to return home or to be
183 placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a
184 foster family home."

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SECTION 7.

186 Said article is further amended in subsection (a) of Code Section 15-11-232, relating to
187 permanency planning hearing and findings, by deleting "and" at the end of subparagraph
188 (9)(C), by replacing the period with ";" and" at the end of paragraph (10), and by adding a new
189 paragraph to read as follows:

190 "(11) In the case of a child placed in a qualified residential treatment program:

191 (A) Whether DFCS has documented ongoing assessments of the strengths and needs
192 of the child that continues to support the determination that the needs of the child
193 cannot be met through placement in a foster family home;

194 (B) Whether DFCS has documented that placement in a qualified residential treatment
195 program provides the most effective and appropriate level of care for the child in the
196 least restrictive environment;

197 (C) Whether DFCS has documented that the child's placement in a qualified residential
198 treatment program is consistent with the short- and long-term goals for the child, as
199 specified in the permanency plan for the child;

(D) Whether DFCS has documented the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and

(E) Whether DFCS has documented their efforts to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home."

SECTION 8.

207 Article 4 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
208 termination of parental rights, is amended by adding a new Code section to read as follows:
209 "15-11-260.1.

210 A proceeding under this article shall not be subject to this article to the extent that it is
211 governed by the Indian Child Welfare Act, P.L. 95-608, as amended, Chapter 21 of Title 25
212 of the United States Code. In those circumstances, compliance with such federal law shall
213 be required."

SECTION 9.

Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to general provisions regarding parent and child relationship generally, is amended by revising subsection (f) of Code Section 19-7-5, relating to reporting of child abuse, when mandated or authorized, content of report, to whom made, immunity from liability, report based upon privileged communication, and penalty for failure to report, as follows:

220 "(f) Any person or persons, partnership, firm, corporation, association, hospital, or other
221 entity participating in the making of a report or causing a report to be made, and individuals
222 who otherwise provide information or assistance, including, but not limited to, medical
223 evaluations or consultations, in connection with a report made to a child welfare agency
224 providing protective services or to an appropriate police authority pursuant to this Code
225 section or any other law or participating in any judicial proceeding or any other proceeding
226 resulting therefrom shall in so doing be immune from any civil or criminal liability that
227 might otherwise be incurred or imposed, provided that such participation pursuant to this
228 Code section or any other law is made in good faith. Any person making a report, whether
229 required by this Code section or not, shall be immune from liability as provided in this
230 subsection."

SECTION 10.

232 Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to
233 children and youth services, is amended by revising paragraph (11) of subsection (a) of Code

234 Section 49-5-8, relating to powers and duties of the Department of Human Services, as
235 follows:

236 "(11) Each youth who is leaving foster care by reason of having attained 18 years of age,
237 unless the child has been in foster care for less than six months, with, if the child is
238 eligible to receive such document, an official or certified copy of the United States birth
239 certificate of the child, a social security card issued by the Commissioner of Social
240 Security, health insurance information, a copy of the child's medical records, and a
241 driver's license or identification card issued by a state in accordance with the requirements
242 of Section 202 of the REAL ID Act of 2005, and any official documentation necessary
243 to prove that the child was previously in foster care. Provision of records in accordance
244 with this paragraph shall not be considered a violation of subsection (b) of Code Section
245 49-5-40; and"

246 **SECTION 11.**

247 Article 2 of Chapter 13 of Title 50 of the Official Code of Georgia Annotated, relating to the
248 Office of State Administrative Hearings, is amended by revising paragraph (1) of subsection
249 (d) of Code Section 50-13-41, relating to hearing procedures, by revising as follows:

250 "(d)(1) As used in this subsection, the term "reviewing agency" shall mean the ultimate
251 decision maker in a contested case that is a constitutional board or commission; an
252 elected constitutional officer in the executive branch of this state; or a board, bureau,
253 commission, or other agency of the executive branch of this state created for the purpose
254 of licensing or otherwise regulating or controlling any profession, business or trade if
255 members thereof are appointed by the Governor; or the Department of Human Services
256 in a contested case where the such department is required to be the ultimate decision
257 maker by federal law or regulations governing titles IV-B and IV-E of the federal Social
258 Security Act."

259 **SECTION 12.**

260 This Act shall become effective upon its approval by the Governor or upon its becoming law
261 without such approval.

262 **SECTION 13.**

263 All laws and parts in conflict with this Act are repealed.